

# ASSIGNING DATES FOR MOTIONS

## Background

- appeal filed November 10. Notice of Hearing issued Nov. 20, providing hearing date of April 4, 2018.
- Notice of Motion filed November 29 by appellant's solicitor, asking for written motion for adjournment of the April date.
- TLAB assigned date for motion to be "heard" on December 14, **only three days after December 11 date for filing of Form 8, election to be a party or participant (as provided in the Notice of Hearing).**
- email from confused potential party on November 30, asking if he has to file a Form 8 to become a party before he can respond to motion. As the person expressed it: "Before what date do I have to submit "Notice of Response to Motion" (Form 8)? Do I have to register as "Party" or "Participant" before I submit Form 8?"

He has now filed a Form 4 to be a party, but three others who got the original notice of the hearing and were given notice of the motion have responded to the motion without filing an election to be either a party or participant. This contravenes Rule 17.6 where responses are limited to a "Party".

## THE PROBLEM

Making an early motion for adjournment, before potential parties and participants have to file their intentions, gives the requestor an advantage if the TLAB assigns a "hearing" date shortly after the date for filing of Form 4. There is no provision in Rule 17 for the time frame for written motions, as Rule 17.5 requires for oral and electronic motions.

In addition, responses are limited to a "Party" under Rule 17.6. Notice of the motion can be provided to everyone who attended the COA meeting, as was done here. However, even if TLAB eventually permits everyone to participate in the written motion, there might still be persons who face the same confusion as the person quoted above. This issue could also arise for oral motion hearings, but the Rules are clearer for them.

## Suggested Solution

PROVIDE A LONGER PERIOD FOR CONSIDERATION OF MOTIONS, particularly written motions, beyond the date provided in the Notice of Hearing for filing an election to participate in the hearing. In the instant case, the date for the consideration of the motion should have been at least **10 days after** the date for filing a Form 4. Persons intending to seek status in the hearing would have sufficient time to do so. This would clarify, and allow for more considered responses to the motion.